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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**
**ORDINARY ORIGINAL CIVIL JURISDICTION**

**NOTICE OF MOTION NO.67 OF 2007**
**IN**
**INSOLVENCY NOTICE NO.N/75 OF 2007**

Re.: .
Harishikesh Travels & Ors. ...Judgment Debtors

Ex-parte: .
The Shamrao Vithal Co-operative .
Bank Ltd. ...Judgment Creditors

Mr.R.V. Vengurlekar, Advocate, for the Judgment Creditors.

**CORAM : ABHAY S. OKA, J.**
**DATED : 16TH OCTOBER, 2007.**

**P.C.:**

1. Heard learned Counsel for the judgment debtors in support of Notice of Motion. I have also heard the learned Counsel appearing for the judgment creditors, who has opposed the Notice of Motion.

2. This Notice of Motion has been taken out for setting aside insolvency notice issued against the judgment-debtors. The said insolvency notice has been issued on the basis of non-compliance with a recovery certificate issued under Section 101 of the Maharashtra Co-operative Societies Act, 1960.

2. In view of the decision of this Court dated 4th September, 2007 in Notice of Motion No.40 of 2007 (Re.Kishore K. Mehta) and other connected matters, insolvency notice under Section 9(2) of the Presidency Towns Insolvency Act, 1909 is not maintainable on the basis of the recovery certificate issued under Section 101 of the said Act of 1960. Hence the Notice of Motion must succeed.

3. The Notice of Motion is, therefore, made absolute by directing that the insolvency notice is quashed and set aside.

**[ABHAY S. OKA, J.]**